

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

S

1

SENATE BILL 53

Short Title: Law Enforcement Authority/Custody of Child. (Public)

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to: Rules and Operations of the Senate

February 9, 2017

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A LAW ENFORCEMENT OFFICER TO OBTAIN CUSTODY OF
A CHILD UPON DETERMINATION BY THE COURT THAT THE CHILD IS IN
DANGER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.5(d)(3) reads as rewritten:

"(d) Service of Process; Notice; Interlocutory Orders. –

...

(3) A temporary order for custody which changes the living arrangements of a child or changes custody shall not be entered ex parte and prior to service of process or notice, unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse or that there is a substantial risk that the child may be abducted or removed from the State of North Carolina for the purpose of evading the jurisdiction of North Carolina courts. If the court finds a temporary order for custody is warranted pursuant to this subdivision, the temporary custody order shall be in writing and shall direct a law enforcement officer or other authorized person to take physical custody of the juvenile and to make due return on the order. A copy of the order shall be given to the juvenile's parent, guardian, custodian, or caretaker by the official executing the order. An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms. If the court finds on the basis of the petition and request for temporary custody or the testimony of the petitioner that a less intrusive remedy is not available, the court may authorize a law enforcement officer to enter private property to take physical custody of the juvenile. If required by exigent circumstances of the case, the court may authorize a law enforcement officer to make a forcible entry at any hour. The officer is not required to inquire into the regularity or continued validity of the temporary order and shall not incur criminal or civil liability for its due service. A temporary order issued by the court pursuant to this subdivision shall proceed as an abuse, neglect, dependency matter in accordance with Chapter 7B of the General Statutes."

SECTION 2. This act becomes effective October 1, 2017, and applies to orders for temporary custody on or after that date.

